

P12425EP 916107

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Application No. 04 253 225.9 - 2204	Ref. P12425EP/GES	Date 09.02.2007
Applicant Spectromedical Inc.		

#### Communication pursuant to Article 96(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

**Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).**



Stübner, Benno  
Primary Examiner  
for the Examining Division

Enclosure(s): 3 page/s reasons (Form 2906)

Beschied/Protokoll (Anlage)	Communication/Minutes (Annex)	Notification/Procès-verbal (Annexe)
Datum Date Date 09.02.2007	Blatt Sheet Feuille 1	Anmelde-Nr.: Application No.: 04 253 225.9 Demande n°:

The examination is being carried out on the **following application documents**:

**Description, Pages**

1-77 as originally filed

**Claims, Numbers**

1-26 as originally filed

**Drawings, Sheets**

1/10-10/10 as originally filed

1. The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: GB-A-2 385 663  
 D2: US 2003/027341 A1 (cited by the applicant)

2. Present Claim 1 relates to an extremely large number of possible methods. In fact, the whole set of claims contains so many options, possible permutations and provisos that a lack of clarity and conciseness within the meaning of Article 84 EPC arises to such an extent as to render a meaningful search of the claims impossible. Consequently, the search had been carried out for those parts of the application which do appear to be sufficiently clear and concise, namely Claim 1 (only lines 1-7

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and 11-21), the corresponding parts of Claims 3, 5 and 6 and the Claims 2, 4, 7-19 and 23-26. Consequently, also the examination concerns only these claims.

3. Claim 1 discloses three alternative groups of inventions, each group comprising a plurality of alternatives:
  - Group I see lines 1-7 and 11-21;
  - Group II see lines 1-4, 7-10 and 22-24; and
  - Group III see line 1 and page 78, I.25 to page 79, I.4

Only group I will be examined:

4. Group I:

At least some of the alternatives of Group I are disclosed in D1; see e.g. p.13, para.2 to p.14, para.2; p.30, para.2 to p.31, para.1; p.40, para.2 to p.42, para.1; Figs.1-3.

Thus, this part of method Claim 1 lacks novelty.

It should be noted that also D2 describes a method corresponding to this part of Claim 1.

5. In Claims 2-19 and 23-26 only slight changes in the method of Claim 1 are defined which come within the scope of the customary practice followed by persons skilled in the art (see also the documents cited in the Search Report), especially as the advantages thus achieved can readily be foreseen. Consequently, these dependent claims do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the EPC in respect of novelty and/or inventive step.



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6. If, in spite of the above-mentioned objections, the applicant wishes to proceed further, the following additional points should be noted:
  - 6.1 Documents D1 and D2 should be mentioned and their contents briefly commented on in the introductory part of the description (Rule 27(1c) EPC).
  - 6.2 The introductory part of the description should contain statements agreeing with any independent claim submitted (Rule 27(1) EPC).
  - 6.3 Any new independent claim should be submitted in the two-part form set out in Rule 29(1) EPC.
  - 6.4 In the new set of claims reference signs should be inserted in brackets following those features which are so numbered in the figures (Rule 29(7) EPC).
  - 6.5 If new features are taken into the claims, Article 123(2) of the EPC should not be infringed and it would probably accelerate the examining process if it were indicated from which part of the application any such features are taken.  
In carrying out the amendments suggested above and additional ones which he feels are necessary the applicant will most likely begin with the presently worded text and make manuscript amendments before having the latter retyped.

Such a manuscript amended copy would be invaluable to the examining division in their reviewing of the case. The division would therefore be indebted to the applicant if such were included together with the type written copies in his letter of reply.